THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 23509 of 2007

Date:06-11-2007

Between:

Dasari Lakshmi and another

...

Petitioners

AND

The District Collector, Kakinada and another

..

Respondents

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ORDER:

The petitioners seek a writ of mandamus to declare the action of the second respondent in issuing notices vide (46-12, 1989-90) R.F. Old XVIII C-2, New XIV C-2-37, 22, 000-28-9-89, dated 29.09.2007 and (46/33, 1983-84) R.F.Old XVII-C1, New XIV-C1-3,52,000-28-1-85, dated nil, evicting the petitioners from their houses 1-23 and 1-33 covered by sub-division 20/2 situated at Bobbarlanka village, Athreyapuram mandal, East Godavari District, as illegal and arbitrary and consequently to set aside the same.

It is the case of the petitioners that they have been assigned with land an extent of Ac.0.04 cents covered by Sy.No.4, Block No.4 Bobbarlanka village, Athreyapuram mandal, East Godavari District for the purpose of constructing houses vide Ref.(A) B/934/95, dated 15.03.1996. Thereafter, the petitioners have constructed the houses without violating any of the assignment rules.

While so, the second respondent-M.R.O., Athreyapuram issued notice, dated 29.09.2007 under Section 7 of the A.P. Land Encroachment Act (for short 'the Act') stating that a tiled house, building and brandi shop have been encroached upon in respect of survey sub-division No.20/2.

Admittedly, none of the petitioners have filed any explanations to the show cause notices and therefore, orders have been passed stating that the petitioners have occupied an extent of Ac.0.04 cents by way of constructing a tiled house, building and brandi shop in Survey sub-division No.20/2 situated at Bobbarlanka village, Athreyapuram mandal.

I am of the opinion that against the said orders, an appeal lies to the Revenue Divisional Officer under Section 10 of the Act.

Learned counsel appearing for the petitioners submits that what was assigned in favour of the petitioners is Ac.0.04 cents in Sy.No.4, but no proceedings appear to have been initiated in respect of the assigned land. But, the proceedings have been initiated under A.P. Land Encroachment Act in respect of the encroached land in Sy.No.20/2.

However, I am not inclined to express any opinion with regard to merits of the case, as it is appellate authority to consider and appreciate the same.

Having regard to the facts of the case, the writ petition is dismissed with liberty to approach the appellate authority against the impugned order within ten days from the date of receipt of a copy of this order. There shall be no order as to costs.

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V.ESWARAIAH, J.

Date:06.11.2007
ccm